

§ 4041.29

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by the insurer to answer questions concerning the annuity; and

(iv) A statement that the participant or beneficiary will receive from the plan administrator or insurer a copy of the annuity contract or a certificate showing the insurer's name and address and clearly reflecting the insurer's obligation to provide the participant's or beneficiary's plan benefits.

§ 4041.29 Post-distribution certification.

(a) *Deadline.* Within 30 days after the last distribution date for any affected party, the plan administrator must file with the PBGC a post-distribution certification consisting of the PBGC Form 501, completed in accordance with the instructions thereto.

(b) *Assessment of penalties.* The PBGC will assess a penalty for late filing of a post-distribution certification only to the extent the certification is filed more than 90 days after the distribution deadline (including extensions) under § 4041.28(a).

§ 4041.30 Requests for deadline extensions.

(a) *In general.* The PBGC may in its discretion extend a deadline for taking action under this subpart to a later date. The PBGC will grant such an extension where it finds compelling reasons why it is not administratively feasible for the plan administrator (or other persons acting on behalf of the plan administrator) to take the action until the later date and the delay is brief. The PBGC will consider—

(1) The length of the delay; and

(2) Whether ordinary business care and prudence in attempting to meet the deadline is exercised.

(b) *Time of extension request.* Any request for an extension under paragraph (a) of this section that is filed later than the 15th day before the applicable deadline must include a justification for not filing the request earlier.

(c) *IRS determination letter requests.* Any request for an extension under paragraph (a) of this section of the deadline in § 4041.25(c) for submitting a determination letter request to the IRS (in order to qualify for the distribution deadline in § 4041.28(a)(1)(ii)) will be deemed to be granted unless the

PBGC notifies the plan administrator otherwise within 60 days after receipt of the request (or, if later, by the end of the PBGC's review period under § 4041.26(a)). The PBGC will notify the plan administrator in writing of the date on which it receives such request.

(d) *Statutory deadlines not extendable.* The PBGC will not—

(1) *Pre-distribution deadlines.* (i) Extend the 60-day time limit under § 4041.23(a) for issuing the notice of intent to terminate; or

(ii) Waive the requirement in § 4041.24(a) that the notice of plan benefits be issued by the time the plan administrator files the standard termination notice with the PBGC; or

(2) *Post-distribution deadlines.* Extend the deadline under § 4041.29(a) for filing the post-distribution certification. However, the PBGC will assess a penalty for late filing of a post-distribution certification only under the circumstances described in § 4041.29(b).

§ 4041.31 Notice of noncompliance.

(a) *Failure to meet pre-distribution requirements.* (1) *In general.* Except as provided in paragraphs (a)(2) and (c) of this section, the PBGC will issue a notice of noncompliance within the 60-day (or extended) time period prescribed by § 4041.26(a) whenever it determines that—

(i) The plan administrator failed to issue the notice of intent to terminate to all affected parties (other than the PBGC) in accordance with § 4041.23;

(ii) The plan administrator failed to issue notices of plan benefits to all affected parties entitled to plan benefits in accordance with § 4041.24;

(iii) The plan administrator failed to file the standard termination notice in accordance with § 4041.25;

(iv) As of the distribution date proposed in the standard termination notice, plan assets will not be sufficient to satisfy all plan benefits under the plan; or

(v) In the case of a spin-off/termination transaction (as described in § 4041.23(c)), the plan administrator failed to issue any notice required by § 4041.23(c), § 4041.24(f), or § 4041.27(a)(2) in accordance with such section.

(2) *Interests of participants.* The PBGC may decide not to issue a notice of